

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

OLGA V. DUNINA,

Plaintiff,

:

Case No. 3:06-cv-399

-vs-

:

District Judge Walter Herbert Rice
Chief Magistrate Judge Michael R. Merz

LIFE CARE HOSPITALS OF
DAYTON, INC.,

Defendant.

ORDER REGARDING SECOND MOTION TO PROCEED *IN FORMA PAUPERIS*

This case is before the Court on Plaintiff's second Application to Proceed *in forma pauperis* (Doc. No. 12).

The Magistrate Judge previously recommended dismissal of this case without prejudice because Plaintiff failed to submit an application to proceed *in forma pauperis* which complied with the Prison Litigation Reform Act of 1995("PLRA"). Although Plaintiff made several objections to that recommendation, she never filed an application which complied with the Act, nor has she ever denied that she is subject to the Act in that she was incarcerated when she filed the Complaint herein.

The Second Application now before the Court also does not comply. In it, she asserts that there were no prison remedies available for the claims she has in this case and that she has exhausted her applicable administrative remedies by completing the EEOC process.

However, the problem with the initial application, and with the second application as well, does not have to do with exhaustion of administrative remedies. Under the PLRA, a person who is a prisoner at the time of filing a civil action in federal court must pay the full filing fee in

installments and must be assessed an initial filing fee based on the plaintiff's income and average prison account balances for the previous six months. The Magistrate Judge has previously directed the Clerk to furnish Plaintiff with the proper form and an additional copy is furnished herewith. Because Plaintiff is no longer incarcerated, she need not obtain any certificate from the person who maintained the jail accounts at the Miami County Jail while she was there.

The presently pending Reports and Recommendations (Doc. Nos. 9 & 11) are withdrawn and Plaintiff is granted leave to file a proper application to proceed *in forma pauperis* not later than June 1, 2007.

May 24, 2007.

s/ **Michael R. Merz**
Chief United States Magistrate Judge